

III. REMARKS

Claims 1 and 4 are pending in this application. Claim 1 has been amended to include the subject matter of claim 2. Claims 2 and 5 have been canceled. Claim 5 is rejected under 35 USC 112. Claims 1 and 4 are rejected under 35 USC 102(e) as allegedly being anticipated by Brown et al. (US 6970918B2) (hereinafter referred to as “Brown”). Claim 2 is rejected under 35 USC 103(a) as being allegedly unpatentable over Brown as applied to claim 1, and in view of Admitted Prior Art. Applicant respectfully traverses the 35 USC 102(e) and 103(a) rejections for the reasons provided below.

Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the claims in a subsequent patent application that claims priority to the instant application.

A. REJECTIONS BASED ON 35 USC 112, SECOND PARAGRAPH

In the Office Action, claim 5 is rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Without conceding the correctness of the Office’s interpretation, and to facilitate early allowance of the pending claims, claim 5 has been canceled. Accordingly, Applicant asserts that the bases for the Office’s rejection have been obviated and respectfully request withdrawal of the rejection.

B. REJECTION OF CLAIMS 1 AND 4 UNDER 35 U.S.C. §102(e)

With regard to the 35 U.S.C. §102(e) rejection over Brown, Applicant asserts that Brown does not teach each and every feature of the claimed invention.

Without conceding the correctness of the Office's interpretation, and to facilitate early allowance of the pending claims, independent claim 1 has been amended to include the subject matter of dependent claim 2. Accordingly, Applicant asserts that the bases for the Office's rejection have been obviated and respectfully request withdrawal of the rejection.

C. REJECTION OF CLAIM 2 UNDER 35 U.S.C. §103(a) and DECLARATION UNDER 35 U.S.C §103(c)

With regard to the 35 U.S.C. §103(a) rejection over Brown as applied to claim 1, and in view of Admitted Prior Art, Applicant respectfully objects to the Office's use of Brown as a reference in its rejection under 35 U.S.C. §103(a). Specifically, the Office admits that the Brown reference constitutes prior art only under 35 U.S.C. 102(e). Furthermore, Applicant asserts that Brown (U.S. Patent No. 6970918B2) was owned by and Application (10/677,467) was subject to an obligation of assignment to International Business Machines Corporation of Armonk, New York at the time the invention of Application 10/677,467 was made. For the above stated reasons, the above-referenced 35 U.S.C. §103(a) rejections of claim 2 based on the reference of Brown is improper and should be withdrawn.

Independent claim 1 has been amended to include the subject matter of dependent claim 2. Accordingly, Applicant submits that claims 1 and 4 are allowable and respectfully requests that the Office withdraw its rejections.

IV. CONCLUSION

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

/David E. Rook/

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